IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE FIFTEENTH DAY OF JULY
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MRS JUSTICE T.MEENA KUMARI

WRIT PETITION NO : 17451 of 1994

Between:

1. Maricherla Appalanaidu S/o Appalanaidu
   R/o Iruwada (V), Vangara (M),
   Srikakulam Dist.
2. Maricherla Rami Naidu S/o Tavitinaidu
   R/o Iruwada (V), Vangara (M),
   Srikakulam Dist.

..... PETITIONERS

AND

1 The District Collector (Land Acquisition) Srikakulam, Srikakulam Dist.
2 The Revenue Divisional Officer, Palakonda, Srikakulam Dist.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a Writ of Mandamus or any other appropriate Writ, Order or direction declaring the order passed by the 2nd respondent the Revenue Divisional Officer, Palakonda, vide R.C.No.9210/88/H dt: 23-06-1994 as illegal, arbitrary and contrary to the provisions under the Land Acquisition Act, and further direct the respondents herein, to make a reference of the cases of the petitioners to the Civil Court for proper determination of market value under the Land Acquisition Act.

Counsel for the Petitioners: MR.RAMA RAO MAVIDI

Counsel for the Respondents: GP FOR LAND ACQUISITION

The Court made the following :

ORAL ORDER:

This writ petition is filed seeking issuance of Writ of Mandamus declaring the order passed by the second respondent-Revenue Divisional Officer, Palakonda, vide R.C.No.9210/88/H, dated 23.06.1994 as illegal, arbitrary and contrary to the provisions under the Land Acquisition Act and further direct the respondents to make a reference of the cases of the petitioners to the Civil Court for proper determination of market value under the Land Acquisition Act.

The petitioners submit that their lands were acquired by the second respondent for the purpose of digging a channel under Ankalam Project by taking advance possession in the year 1988 itself and the second respondent passed an Award on 30.11.1991 without serving any notices on them and they received the compensation under protest and did not accept the award passed by the second respondent as the market value fixed by the second respondent is very low and meager and they sent applications under Section 18(1)

of Land Acquisition Act to the second respondent requesting him to make a reference to the Civil Court for proper determination of market value, but the second respondent in his proceedings R.C.No.9210/88/H, dated 26.06.1994 has rejected their request on the ground that the petitions filed by them are belated. So the action of the second respondent rejecting their applications after lapse of nearly two years from the date of submission is illegal, arbitrary and contrary to the provisions under the Land Acquisition Act.

The main grievance of the petitioners in the writ petition is that even though applications have been made under Section 18(1) of Land Acquisition Act to the 2nd respondent on 27.06.1992, within a period of six weeks from the date of receipt of compensation pursuant to the Award, which has been acknowledged by the respondents on 29.06.1992, the respondents have not chosen to pass orders in accordance with law. However, the impugned order was passed stating that the application itself is belated one.

Learned counsel for the petitioners submits that the lands were acquired in the year 1988 and 12(2) notice was issued on 23.05.1992 and within a period of six weeks the petitioners chose to made the applications and hence the reason adduced in the impugned order that the application itself is belated one has no basis.

A counter-affidavit has been filed on behalf of the respondents stating that notice was issued on 23.05.1992 directing the awardees to receive the compensation. It is also admitted that the awardees filed their applications on 29.06.1992 to refer the matter to a Civil Court under Section 18(1) of the Land Acquisition Act.

In view of the submission made in the counter-affidavit that 12(2) notice was issued on 23.05.1992 and the applications have been filed by the awardees on 29.6.1992, the reasoning given in the impugned order has no basis. Therefore, it is evident that the 2nd respondent passed the impugned order without looking into the records as the reasoning adduced in the counter-affidavit goes

against the impugned order.

Under the aforesaid circumstances, the impugned order is set aside and the matter is remitted to the 2nd respondent with a direction to pass appropriate orders in accordance with law on the applications filed by the petitioners, within a period of eight weeks from the date of receipt of a copy of this order.

The writ petition is accordingly allowed. No costs.

15th July, 2004

***Nsr/Gsn**

That Rule Nisi has been made absolute as above.

Witness the Hon'ble Sri Devinder Gupta, the Chief Justice on this Thursday, the Fifteenth Day of July, Two Thousand and Four.

ASSISTANT REGISTRAR

To

1 The District Collector (Land Acquisition) Srikakulam, Srikakulam Dist.
2 The Revenue Divisional Officer, Palakonda, Srikakulam Dist.

3. Two CCs to Gpfor Land Acquisition, High Court Buildings, Hyderabad (OUT)

4. Two CD copies.